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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/420,616	10/18/1999	WILLIAM JOSEPH BEYDA	99P7918US	3051

7590 09/16/2004  
SIEMENS CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
186 WOOD AVENUE SOUTH  
ISELIN, NJ 08830

EXAMINER
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DUONG, FRANK

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/420,616

Applicant(s)

BEYDA ET AL.

Examiner

Frank Duong

Art Unit

2666

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-14 and 16.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
Frank Duong  
Examiner  
Art Unit: 2666

Continuation of 2. NOTE: The proposed amendment changes the scope of the invention originally claimed and previously prosecuted by changing the terms "adjusting" with "increasing" and "a size" with "a threshold size". In addition, the proposed amendment will not place the instant application in a favorable or better form for allowance. In the Remarks of the outstanding response filed 07/21/04, in reference to the 112, first paragraph rejection of claims 1-4 per Office Action dated 04/21/04, Applicant argues there is support for the disputed limitation in the specification, page 6, lines 9-21 (Remarks, page 5). In response Examiner respectfully disagrees. The noted specification, on page 6, lines 9-24 discloses the packet size in the packetized 80 is increased based on the threshold related to the jitter buffer size, not "the packets for input to the jitter buffer is increased based on a sized of the jitter buffer". In other words, in a telecommunication node, the packets in the packetizer 80 are being adjusted (disclosed), not the packets input into the jitter buffer (claimed). As for the Remarks pertaining the art rejection, Examiner asserts the Office Action has clearly pointed out the claimed limitations corresponding to the applied references for all claims in the submitted conditions. Due to the proposed amendment raises new issues and fails to place the instant application in a favorable condition for allowance by overcoming the 112, first and art rejections, the proposed amendment will not entered.